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11 || Attorneys for Creditor Centennial Bank

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

17 In re  
18 EVANDER FRANK KANE,  
19 Debtor.  
20  
21  
22  
23

CASE NO. 21-50028 SLJ  
Chapter 7

**CENTENNIAL BANK'S REPLY IN  
SUPPORT OF MOTION TO DISMISS  
LIQUIDATION [DOC. 83]**

Date: May 18, 2021  
Time: 2:00 p.m.  
Ctrm: Via Zoom Video Conference  
Judge: Hon. Stephen L. Johnson

24       Centennial Bank, an Arkansas state-chartered bank, by and through its undersigned counsel  
25       of record, hereby respectfully submits this reply in support of “Centennial Bank’s Motion to Dismiss  
26       Liquidation” (the “Dismissal Motion”) [Doc. 83], as joined by Professional Bank (“Professional”)  
27  
28       [Docs. 84 and 100] and Zions Bancorporation, N.A. (“Zions”) [Doc. 119], and in response to

1 "Debtor's Opposition to Centennial Bank's Motion to Dismiss Liquidation" (the "Dismissal  
2 Opposition") [Doc. 120] filed Evander Frank Kane (the "Debtor") on May 4, 2021.<sup>1</sup>

3                   **I. INTRODUCTION**

4                   In 2005, practitioners saw the biggest reform to the bankruptcy laws since 1978 with the  
5 passage of the Bankruptcy Abuse Prevention and Consumer Protection Act ("BAPCPA").  
6 BAPCPA's primary purpose was to prevent abuses of the bankruptcy laws by making it more  
7 difficult for some consumers to file bankruptcy under chapter 7, placing more stringent restrictions  
8 on access to relief under the same. See In re Robinson, 560 B.R. 352 (Bankr. D. Colo. 2016).  
9 BAPCPA "eliminated the presumption in favor of granting relief and changed the standard for  
10 dismissal from 'substantial abuse' to 'abuse'" and provided that "any party in interest," and not just  
11 the United States Trustee, could bring a motion to dismiss an improperly filed chapter 7. Id.  
12

13                   In order to restrict the number of debtors that could take advantage of the generous benefits  
14 of declaring chapter 7 bankruptcy, BAPCPA added what is referred to as the "means test" to 11  
15 U.S.C. §707(b)(2). Id. Now, those debtors whose monthly income is higher than the median income  
16 of their state, as calculated by the Bankruptcy Code, are presumptively abusive under 11 U.S.C. §  
17 707(b)(2). Id. The Debtor represents such a debtor whose income, derived primarily from a multi-  
18 million-dollar Player's Contract with the San Jose Sharks, is well above the median income of his  
19 state of residence – California. He is not the honest and unfortunate debtor in need of a fresh start.  
20 But instead, is seeking to utilize the Bankruptcy Code to seek an advantage over his creditors he no  
21 longer wishes to pay. But the Debtor's ability to pay – coupled with the consumer nature of the  
22 Debtor's debt obligations – confirms that dismissal of this Liquidation is in order.  
23

25                   **II. MEMORANDUM OF LAW**

26                   **A. Dismissal Is Warranted As The Debtor's Debts Are Primarily Consumer**

27                   

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<sup>1</sup> For purposes of brevity, Centennial utilizes those terms that are more fully defined in the Dismissal  
28 Motion.

1 Both Centennial and the Debtor agree that “consumer debt” is a “debt incurred by an  
2 individual primarily for a personal, family, or household purpose,” 11 U.S.C. § 101(8), whereas  
3 non-consumer debt is “[d]ebt incurred for business ventures or other profit-seeking activities.” Zolg  
4 v. Kelly (In re Kelly), 841 F.2d 908, 913 (9th Cir. 1988); see [Doc. 120 at ¶6]. However, the parties  
5 disagree as to the nature of the various secured and unsecured loans that the Debtor has incurred  
6 over a short three (3) year period with very little assets to show for it. In the Dismissal Motion,  
7 Centennial explained that the Debtor’s debt obligations were primarily consumer in nature,  
8 supported by the Debtor’s Schedules and own testimony at the 341 Examination and 2004  
9 Examination. In response, the Debtor has put forth very little to rebut this evidence other than his  
10 own self-serving argument. And while the initial burden is on Centennial as the moving party to  
11 support its Dismissal Motion, the Debtor, however, “bears the burden of demonstrating a profit  
12 motive in order to establish that a debt is nonconsumer or a business debt.” In re Ferreira, 549 B.R.  
13 232, 237 (Bankr. E.D.Cal. 2016). Centennial has met its burden; the Debtor has failed to meet his.

16 The Debtor’s Schedules reflect \$28,191,340 secured and unsecured debt, of which  
17 \$13,964,000 is attributed to amounts owed by the Debtor to Centennial, Professional, and Zions  
18 (collectively, the “Non-Residential Bank Debt”) – or forty-nine (49%) percent of the Debtor’s total  
19 claimed liabilities. In his Dismissal Opposition, the Debtor admits that he has \$2,985,791 of  
20 consumer debt, representing loans incurred by the Debtor from Pacific Private Holdings, 1000568  
21 B.C. Ltd., Wells Fargo, and Raj Bhangu (collectively, the “Other Consumer Debt”). Despite this,  
22 the Debtor ignores the \$2,150,000 (collectively, the “Unsecured Consumer Debt”) of additional  
23 unsecured loans that the Debtor incurred from various friends and friends in order to pay bills and  
24 other monthly expenses – clearly consumer debt as it was for personal, family, and household use  
25 at the Debtor’s own admission. See Exhibit “A.” The combined total of the Non-Residential Bank  
26 Debt, the Other Consumer Debt, and the Unsecured Consumer Debt equals \$19,099,791 – or sixty-  
27  
28

1 eight (68%) percent of the Debtor's scheduled debt.<sup>2</sup>

2       The Debtor spends the majority of its Dismissal Opposition trying to convince this Court –  
3 to no avail – that the Non-Residential Bank Debt is non-consumer. The evidence confirms that the  
4 Non-Residential Bank Debt was not utilized by the Debtor to purchase any real property, investment  
5 or otherwise, to invest in any business venture, or to operate any ongoing business enterprise.  
6 Instead, the Debtor has confirmed that the majority of Non-Residential Bank Debt went to paydown  
7 or payoff preexisting debt obligations of the Debtor (the “Preexisting Debt”). See [Doc. 99, Ex. A].  
8 Paying off preexisting debt obligations not tied to any profit-seeking or business venture is clearly  
9 a personal use. The Debtor tacitly admits this fact, as he classified the \$100,000 loan incurred from  
10 Raj Bhangu as a “[c]onsumer” debt, Doc. 120 at ¶8, despite the fact that the Debtor testified that the  
11 Bhangu loan was used to stay current on past due bills and make up late payments. See Exhibit “B.”  
12

13       In response to this uncontested evidence, the Debtor postulates that the Non-Residential  
14 Bank Debt is “clearly non-consumer in nature” because some documents may be titled “Business  
15 Loans,” and the lending relationships were arranged by a third-party that was highly compensated  
16 and contained “sophisticated transactional documents.” [Doc. 120 at ¶9]. However, the mere fact  
17 that a loan may be secured does not disqualify it from being a consumer debt. See Cox v. Fokkena  
18 (In re Cox), 315 B.R. 850, 855 (8th Cir. BAP 2004) (citing Kelly, 841 F.2d at 912). Instead, to  
19 determine whether a debt should be classified as a consumer debt, courts examine the debtor’s  
20 purpose in incurring it. See Bushkin v. Singer (In re Bushkin), BAP No. CC-15-1285-KiKuF, 2016  
21  
22

23  
24 \_\_\_\_\_  
25 <sup>2</sup> The Debtor lists the two (2) debt obligations associated with his two (2) Canadian properties as  
26 non-consumer, because the Debtor allegedly purchased the same as investment properties, despite  
27 the fact that the Debtor purchased the Isabel Property was purchased for the Debtor’s family to  
28 reside in without making any financial contribution to the purchase or upkeep of the same.  
Regardless of whether the two (2) Canadian properties were purchased as investment properties or  
not, the Debtor’s debt identified above is primarily consumer, as it above the fifty (50%) percent  
threshold. Kelly, 841 F.2d at 913.

WL 4040679, at \*7 (B.A.P. 9th Cir. July 22, 2016); Lapke v. Mutual of Omaha Bank (In re Lapke), 428 B.R. 839, 843 (8th Cir. BAP 2010). The Debtor's stated purpose in incurring the Non-Residential Bank Debt was to payoff the Preexisting Debt – a quintessential personal interest. The Debtor has put forth no evidence that the purpose in incurring the Non-Residential Bank Debt was for any business or profit-seeking motive.<sup>3</sup> Instead, the evidence negates such a proposition.

The Debtor simply has not carried his burden of demonstrating that the Non-Residential Bank Debt were incurred for a profit motive. The purpose of the Non-Residential Bank Debt was personal in nature and thus is a consumer debt under 11 U.S.C. § 101(8) for purposes of 11 U.S.C. § 707(b).

**B. Presumption Of Abuse Under §707(b)(2)**

Because the Debtor steadfastly argues – although in error - that his debt is primarily non-consumer, the Debtor does not contest the fact that the Debtor's chapter 7 filing is presumptively abusive as his annualized income greatly exceeds the applicable median family income. This fact supports dismissal of the Debtor's impermissibly filing of this Liquidation.

**C. The Debtor's Filing Constitutes Abuse Under §707(b)(3)(B)**

The Debtor's Liquidation should be dismissed as an abuse under 11 U.S.C. § 707(b)(3)(B) based upon the totality of the circumstances surrounding the Debtor's financial situation. The evidence clearly shows that the Debtor has the ability to repay a sufficient amount of his scheduled unsecured debt – he is simply choosing not to.

The Debtor's primary argument is to take issue with Centennial's calculations of his monthly disposable income without actually attempting to set forth what the Debtor perceives to be an accurate description of his monthly disposable income to date. During his continued 341

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<sup>3</sup> Nor could he as the Debtor cannot even recall what the Preexisting Debt was incurred for in the first place.

1 Examination, the Debtor confirmed that he is paid on a bi-weekly basis. See Exhibit "C." At the  
2 time of his continued 341 Examination, the Debtor confirmed that he had received two payments  
3 pursuant to this Player's Contract – a \$38,709.03 payment in January, an approximate \$60,000  
4 payment prior to February 23, 2021 as the Debtor testified to during his continued 341  
5 Examination<sup>4</sup>, and an approximate \$70,000 payment received on February 26, 2021. See Composite  
6 Exhibit "D." Thus, through the first two (2) months of his Liquidation, the Debtor has received net  
7 payments amounting to approximately \$170,000 – far greater than the \$91,605 median family  
8 income for a family of three (3) living in California.<sup>5</sup> One can easily surmise that the Debtor has  
9 continued to receive significant income payments in light of the fact that he has played in every  
10 game that the San Jose Sharks have competed in this season despite what the Debtor's Schedules  
11 reflect.<sup>6</sup> This again does not take into consideration the Debtor's expectation of receiving an  
12 additional \$1,200,000 federal tax refund. [Doc. 29 at ¶2].

15 The Debtor's ability to repay unsecured debts, standing alone, is sufficient to find an abuse  
16 under Bankruptcy Code §707(b)(3)(B) necessitating dismissal of this Liquidation. See e.g. In re  
17 Reed, 422 B.R. 214 (C.D. Cal. 2009) (holding that the debtor's ability to repay is, by itself, sufficient  
18 to find abuse under the totality of the circumstances test under §707(b)(3)); Kelly, 841 F.2d at 914  
19 ("The rule adopted by the overwhelming majority of the courts considering the issue appears to be  
20 that a debtor's ability to pay his debts will, standing alone, justify a section 707(b) dismissal");  
21 Calhoun v. United States Trustee, 650 F.3d 338 (4th Cir. 2011) (dismissing the debtor's case under  
22

23 \_\_\_\_\_  
24 <sup>4</sup> Documentation pertaining to this payment was not provided to Centennial in advance of the  
Debtor's 2004 Examination.

25 <sup>5</sup> [www.justice.gov/ust/eo/bapcpa/20201101/bci\\_data/median\\_income\\_table.htm](http://www.justice.gov/ust/eo/bapcpa/20201101/bci_data/median_income_table.htm)

26 <sup>6</sup> The Debtor's \$170,000 received salary payments known to Centennial accounts for only fifteen  
(15) games played by Kane. Since receiving his last known check on February 26, 2021 – for the  
pay period ending on February 18, 2021 – the Debtor has competed in forty (40) additional games.  
See <https://www.nhl.com/sharks/stats>

1 §707(b)(3) because they were able to pay their creditors based on the totality of the circumstances  
2 of their financial situation); In re Krohn, 886 F.2d 123 (6th Cir. 1989) (stating that “ability to pay”  
3 “alone may be sufficient to warrant dismissal” for substantial abuse). The Debtor’s lavish lifestyle  
4 does not excuse his unwillingness to pay his creditors, instead, the Debtor should “be required to  
5 engage in some good, old-fashioned belt tightening,” In re Scarberry, 428 B.R. 403, 427 (Bankr.  
6 N.D. Ohio 2009), something the Debtor’s Schedules indicate he is unwilling to do. See Doc. 30 ¶11  
7 Part 24.

8 **D. The Debtor’s Filing Constitutes Bad Faith Pursuant to §707(b)(3)(A)**

9 The Debtor’s filing of this Liquidation constitutes bad faith pursuant to 11 U.S.C. §  
10 707(b)(3)(A) requiring dismissal. In the Dismissal Motion, Centennial, following the nine (9)  
11 factors as outlined in In re Mitchell, 357 B.R. 142 (Bankr. C.D. Cal. 2006) and In re Leavitt, 171  
12 F.3d 1219 (9th Cir. 1999), identified that the Debtor’s filing of this Liquidation meets eight (8) out  
13 of the nine (9) factors for “bad faith.” In his Dismissal Opposition, the Debtor has done very little  
14 to refute the evidence submitted by Centennial in the Dismissal Motion. Centennial need not repeat  
15 here what it has already proven in the context of the Dismissal Motion. Accordingly, and for all of  
16 the foregoing reasons stated therein, this Court should conclude that the instant Liquidation  
17 constitutes an abuse of the bankruptcy process and has been initiated in bad faith in violation of 11  
18 U.S.C. §§707(b)(2), (b)(3)(A), and (b)(3)(B), and accordingly dismiss this Liquidation.  
19

20 Based on the foregoing analysis, this Court should reject the Dismissal Opposition and  
21 enter an order granting the Dismissal Motion and dismissing this Liquidation.  
22

23     ///  
24     ///  
25     ///  
26     ///  
27     ///  
28     ///

1 DATED: May 11, 2021

ANTHONY & PARTNERS, LLC

3 By: /s/ John A. Anthony

4 John A. Anthony

5 Attorneys for Creditor Centennial Bank

8 DATED: May 11, 2021

COOPER, WHITE & COOPER LLP

10 By: /s/ Peter C. Califano

11 Peter C. Califano

12 Attorneys for Creditor Centennial Bank

1503797.1

# **EXHIBIT “A”**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION  
CASE NO.: 21-50028-SLJ  
Chapter 7

4 In re  
5 EVANDER FRANK  
6 Debtor.

RULE 2004  
EXAMINATION AND  
DUCES TECUM  
DEPOSITION OF: **EVANDER FRANK KANE**

TAKEN: Pursuant to Notice by  
Counsel for Centennial Bank

DATE: March 24, 2021

TIME: 2:01 p.m. to 5:14 p.m. (EST)

LOCATION: Zoom videoconference

REPORTED BY: Melanie Keefe, FPR  
Notary Public  
State of Florida at Large

1 APPEARANCES: ANDREW J. GHEKAS, ESQUIRE  
2 Anthony & Partners, LLC  
3 100 South Ashley Drive  
Suite 1600  
Tampa, Florida 33602

4 Attorney for Centennial Bank

5 STEPHEN D. FINESTONE, ESQUIRE  
6 Finestone Hayes LLP  
7 456 Montgomery Street  
20th Floor  
San Francisco, California 94104

8 Attorney for the Debtor

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REGENCY REPORTING SERVICE, INC. (813)224-0224

1 Professional Bank?

2 A. Correct.

3 Q. And so, again, to confirm, you didn't use any of  
4 the Zions Bancorporation or California Bank & Trust loan to  
5 buy any property?

6 A. Correct.

7 Q. You didn't use it to invest in any ongoing  
8 business?

9 A. Correct.

10 Q. You didn't start a new business with it?

11 A. Correct.

12 Q. If we can skip to page 12 of this document and  
13 there's a series of unsecured loans that you have listed  
14 there. I just want to briefly go through each one. Davis  
15 Sanchez you identify as a \$150,000 loan. Do you know what  
16 that loan was for?

17 A. Yeah. It was money I borrowed from him.

18 Q. And what was the purpose of borrowing the money?

19 A. To basically just be able to pay my bills.

20 Q. And do you know when you took out -- or sorry,  
21 not took out. Do you know when you borrowed this money?

22 A. It wasn't all at the same time. It was over the  
23 course of a number of years.

24 Q. Are there any payment terms to this loan?

25 A. On paper or...

1 Q. Yes, on paper.

2 A. No.

3 Q. And who is Davis Sanchez to you?

4 A. Just a friend of mine.

5 Q. And going to page 13, the first one, Hebron  
6 Shyng?

7 A. Yep.

8 Q. 430,000, what was that loan for?

9 A. Again, to help pay off some debt that I had and  
10 also to stay current on my bills.

11 Q. And do you know what debt you're referring to?

12 A. There's probably some credit card debt, some  
13 bills that I was behind on, so I can be able to pay my  
14 mortgages, rent at the time, food.

15 Q. And -- and who is Mr. Shyng?

16 A. He's a friend of my parents.

17 Q. And then the page 14, Mike Lispti?

18 A. Um-hmm.

19 Q. 750,000, what was that loan for?

20 A. That was some money that I had borrowed.

21 Q. And what was the purpose of borrowing that money?

22 A. Just to help pay off some -- some other people  
23 that I borrowed money from.

24 Q. And do you know when this loan was incurred?

25 A. Not exactly, no.

1 Q. Is there any documentation to it?

2 A. No.

3 Q. And continuing to page 15 -- I'm sorry. Skip 15.

4 Page 16, Pete Gianakas?

5 A. Um-hmm.

6 Q. 400,000, what was this loan for?

7 A. Again, just to pay off some other people that I  
8 had borrowed money from in the past.

9 Q. Did you know who those people were?

10 A. I don't recall at this time.

11 Q. Do you know the date in which you took out -- or  
12 took this loan?

13 A. No, I do not.

14 Q. Is there any documentation?

15 A. No.

16 Q. And then same page, Raj Bhangu?

17 A. Bhangu, yeah.

18 Q. Bhangu. Sorry. A hundred thousand, same  
19 question, do you know why -- why this loan was taken out?

20 A. Yeah. He loaned me the money because I was  
21 behind on some bills and needed -- needed the cash to -- to  
22 stay current and make up some late payments.

23 Q. And do you know when this loan was taken out?

24 A. I don't recall, no.

25 Q. And is it documented?

1           A. It is not.

2           Q. And then the last one I have on this, page 17 of  
3           19, Tony Veltri?

4           A. Yes.

5           Q. 320,000, again, do you know what this loan was  
6           taken out for?

7           A. Yes. It was money used to pay off other people  
8           that I had borrowed money from in the past.

9           Q. And do you recall who those other people were?

10          A. I do not.

11          Q. And do you know the date in which you took out  
12          this loan?

13          A. No. It was money pieced together over time.

14          Q. And there's no written documentation regarding  
15          it?

16          A. No.

17          Q. Okay. So now I'm going to want to have you open  
18          up a document entitled Wells Fargo 2020 Statements  
19          Combined.

20          A. Yep.

21          Q. All right. If you could, what -- what is -- what  
22          is your Wells Fargo account primarily used for?

23          A. There's nothing specific about what the account  
24          is used for.

25          Q. Okay. And you just have seven accounts. I

1 CERTIFICATE OF REPORTER  
2  
3 STATE OF FLORIDA )  
4 COUNTY OF HILLSBOROUGH )  
5  
6 I, Melanie Keefe, Court Reporter, certify that I  
7 was authorized to and did stenographically report remotely  
8 the deposition of EVANDER FRANK KANE; that a review of the  
9 transcript was requested; and that the transcript, pages 5  
10 through 102, inclusive, is a true and complete record of my  
11 stenographic notes.  
12  
13 I further certify that I am not a relative,  
14 employee, attorney, or counsel of any of the parties, nor am  
15 I a relative or employee of any of the parties' attorney or  
16 counsel connected with the action, nor am I financially  
17 interested in the action.  
18  
19  
20  
21  
22  
23  
24  
25

*s/Melanie Keefe*  
Melanie Keefe, FPR  
Court Reporter

14 CERTIFICATE OF OATH  
15  
16 STATE OF FLORIDA )  
17 COUNTY OF HILLSBOROUGH )  
18  
19 I, the undersigned authority, certify that  
EVANDER FRANK KANE personally appeared before me remotely  
and was duly sworn.  
20  
21  
22  
23  
24  
25

WITNESS my hand and official seal this 8th day of  
April, 2021.

*s/Melanie Keefe*  
Melanie Keefe, FPR  
Notary Public  
State of Florida  
My Commission No.: HH055410  
Expires: December 9, 2024

REGENCY REPORTING SERVICE, INC. (813)224-0224

# **EXHIBIT “B”**

1 Q. Is there any documentation to it?

2 A. No.

3 Q. And continuing to page 15 -- I'm sorry. Skip 15.

4 Page 16, Pete Gianakas?

5 A. Um-hmm.

6 Q. 400,000, what was this loan for?

7 A. Again, just to pay off some other people that I  
8 had borrowed money from in the past.

9 Q. Did you know who those people were?

10 A. I don't recall at this time.

11 Q. Do you know the date in which you took out -- or  
12 took this loan?

13 A. No, I do not.

14 Q. Is there any documentation?

15 A. No.

16 Q. And then same page, Raj Bhangu?

17 A. Bhangu, yeah.

18 Q. Bhangu. Sorry. A hundred thousand, same  
19 question, do you know why -- why this loan was taken out?

20 A. Yeah. He loaned me the money because I was  
21 behind on some bills and needed -- needed the cash to -- to  
22 stay current and make up some late payments.

23 Q. And do you know when this loan was taken out?

24 A. I don't recall, no.

25 Q. And is it documented?

# **EXHIBIT “C”**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

---

In re: )  
EVANDER FRANK KANE CH: 7 ) 21-50028  
Debtor. )  
\_\_\_\_\_  
)

U.S. Trustee  
P.O. Box 4188  
Mountain View, CA 94040

February 23, 2021

BEFORE FRODE S. HJELMESET Chapter 7 Trustee

APPEARANCES:

For the Debtor: Stephen Finestone  
Finestone Hayes LLP  
456 Montgomery St. 20th Fl.  
San Francisco, CA 94104

For the United States Trustee: Marta E. Villacorta

Proceedings recorded by electronic sound recording;  
transcript produced by The Record Xchange.

1           MS. VILLACORTA: When is your next game? When do  
2 you play next?

3           MR. FINESTONE: What's the relevance of that  
4 question, Ms. Villacorta, I don't understand why you're asking  
5 when his next is?

6           MS. VILLACORTA: I'm asking about his, I mean, he's  
7 earning income, right? You know, I'm still really confused as  
8 to why no income was reported on Schedule I.

9           MR. KANE: So --

10          MR. FINESTONE: Well, asking him about what his next  
11 game is, isn't going to change that confusion. You and I just  
12 have a difference of opinion about how Schedule I should be  
13 filled out.

14          His schedule is online, if you want to see what the  
15 Sharks' schedule is.

16          MS. VILLACORTA: Oh, thank you, Mr. Finestone. So,  
17 when do you expect your next paycheck, Mr. -- Mr. Kane?

18          MR. KANE: I'm not sure. I'd have to look at the  
19 pay, pay schedule.

20          MS. VILLACORTA: Okay. Do you get paid bi-weekly?  
21 Because I know you got paid once in January, and then it  
22 sounds like you just got paid.

23          MR. KANE: Yeah, we do. We get paid bi-weekly.

24          MS. VILLACORTA: Okay. All right. So, thank you  
25 for that. So, I have some questions regarding some transfers

C E R T I F I C A T E

I hereby certify that the foregoing is a true and correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

John Buckley

John Buckley, CET-623  
Digital Court Proofreader

# **COMPOSITE EXHIBIT “D”**

1 MR. KANE: Correct.

2 MS. VILLACORTA: Is an additional payment from the  
3 Sharks, okay.

4 MR. KANE: Not an additional payment. Not an  
5 additional --

6 MR. FINESTONE: The confusion, Ms. Villacorta, was  
7 your -- he's answering a different question than you're  
8 asking. You're asking, did he receive an additional payment  
9 beyond the July payment.

10 MS. VILLACORTA: Right.

11 MR. FINESTONE: And what Mr. Kane, I believe, is  
12 saying is no, that's just part of that same money.

13 MR. KANE: Correct.

14 MS. VILLACORTA: Okay, is that what you're saying,  
15 Mr. Kane?

16 MR. KANE: That is correct.

17 MS. VILLACORTA: Okay. I think we've requested this  
18 last time, but can you provide, for example, the payments that  
19 you received from your employer since July 2020?

20 MR. FINESTONE: Yes, you've requested it and he has,  
21 he does not have a copy of it, but he's asked for one, and we  
22 will forward that to you.

23 MS. VILLACORTA: Okay. Thank you. And then,  
24 Mr. Kane, just for the record, how many paychecks have you  
25 received this year, 2021?

1 MR. KANE: Two.

2 MS. VILLACORTA: Okay. And how much were you paid?

3 MR. KANE: I believe, we sent you a copy of the  
4 first pay stub. And this last check, I believe it was around  
5 60,000.

6 MS. VILLACORTA: Okay. And, you know, I'm still a  
7 little confused, because I went back to Schedule I, and it  
8 looks like Schedule I, where you listed, disclosed your  
9 income, it looks like it wasn't amended to include or report  
10 any of the earnings that you received from the San Jose  
11 Sharks.

12 So, even though you received income in July, August,  
13 and October, nothing was reported on Schedule I. Can you  
14 please explain that?

15 MR. FINESTONE: Yeah, that's a legal question. And  
16 I've answered it in the correspondence we've had,  
17 Ms. Villacorta. I believe Mr. Kane has provided a lengthy  
18 explanation of his income, far more than you would normally  
19 receive in any bankruptcy filing to explain the potential  
20 future income.

21 And so, from our perspective, Schedule I is  
22 appropriate. You may disagree, but that's our position.

23 MS. VILLACORTA: Okay. And Mr. -- Kane, thank you,  
24 Mr. Finestone, but when is your next game?

25 MR. KANE: Pardon me?

1           Q.     And so that was actually my -- my first question  
2     is why there are three separate checks, it looks like?

3           A.     I do not know why there are three separate  
4     checks.

5           Q.     Okay.

6           A.     I -- I know that they total my pay for that pay  
7     period. But with regards to why there were three separate  
8     individual checks, I do not know.

9           Q.     Okay. And -- and so did you, in fact, receive  
10     the total of 73,000 or --

11          A.     Yes.

12          Q.     Yes? Okay.

13          A.     Yeah, approximately, whatever those three totals  
14     add up to.

15          Q.     Okay. And so here it says this pay period was  
16     for February 5th through February 18. And the -- and the  
17     January check that we just looked at, that pay period ended  
18     -- I believe it was January 21. So was -- was there not a  
19     pay period in between these two checks?

20          A.     Yeah, I -- again, I don't make these documents or  
21     these checks, but no, there is no pay period in between  
22     that. No.

23          Q.     Okay. And so previously when we covered your  
24     expense number -- your monthly expense number, you weren't  
25     able to testify whether or not you -- what your checks were

## **PROOF OF SERVICE**

**In re EVANDER FRANK KANE  
Case No. 21-50028-SLJ**

**STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of San Francisco, State of California. My business address is 201 California Street, Seventeenth Floor, San Francisco, CA 94111-5002.

On May 11, 2021, I served true copies of the following document(s) described as **CENTENNIAL BANK'S REPLY IN SUPPORT OF MOTION TO DISMISS LIQUIDATION [DOC. 83]** on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Cooper, White & Cooper LLP for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at San Francisco, California.

**BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 11, 2021, at San Francisco, California.

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Mercedes Stüfen

## SERVICE LIST

**In Re: EVANDER FRANK KANE  
Case No. 21-50028**

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